

## **Exhibit A**

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**From:** Launer, Josh L  
**Sent:** Wednesday, January 27, 2010 3:31 PM  
**To:** 'michael.albert@wolfgreenfield.com'; 'john.strand@wolfgreenfield.com';  
'jeffrey.oneill@wolfgreenfield.com'; 'ibarzilay@seyfarth.com'  
**Cc:** Puzella, Mark S; Hosp, R David; O'Connell Jr, Robert M; Jones, Michael T  
**Subject:** Explorica, Inc. v. Elderhostel, Inc.

Dear Counsel,

Following up on our discussion yesterday afternoon, please produce as soon as possible the following:

- (1) Any insurance policies which Elderhostel believes may cover, indemnify, reimburse, or otherwise satisfy all or part of a possible judgment in this matter, and therefore should have been automatically produced pursuant to Fed. R. Civ. P 26(a)(1)(A)(iv);
- (2) Documents responsive to REQUEST 19: For this request, Explorica specifically seeks documents sufficient to identify all tours and/or programs sold under the EXPLORITAS Mark since the rebranding on or about September 22, 2009, whether or not the customer has actually traveled and/or participated in a program, including but not limited to, the number of customers for each tour and/or program, and the cost each customer paid - in other words, all gross revenues for any trip or product sold under the EXPLORITAS Mark. In addition, please produce any documentation Elderhostel intends to use to arrive at all costs or deductions claimed against the gross revenues;
- (3) Documents sufficient to show the number of participants and corresponding revenue for all tours and/or programs that have been sold under the EXPLORITAS Mark, broken down by product line;
- (4) Documents sufficient to show all marketing expenditures, as well as the type and volume of all marketing materials, after the rebranding using the EXPLORITAS Marks. For this request, Explorica specifically seeks documents regarding the EXPLORITAS market spend, including but not limited to, all mailings - direct and/or internet - catalogs, and brochures featuring the EXPLORITAS Mark, and all expenditures associated with updating the website to reflect the rebranding efforts under the EXPLORITAS Mark, along with the current budget for the remainder of the year.

For instance, Elderhostel produced a spreadsheet detailing all "Active and Completed Campaigns Since 09/01/2009" (EH016316-16321) which lists marketing campaigns. Please provide financial data for each. Similarly, EH012938-12946, lists the financial data for all brochures and catalogs for fiscal years 2004-2009; however, specifically for 2009, Elderhostel did not provide information regarding which catalogs and brochures were sent using the EXPLORITAS Mark.

Regards,

Josh L. Launer  
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## **Exhibit B**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

EXPLORICA, INC.,

Plaintiff,

v.

ELDERHOSTEL, INC.  
d/b/a/ EXPLORITAS, ,

Defendant.

Civil Action No. 09-11719

**NOTICE OF 30(b)(6) DEPOSITION**

TO: Michael Albert, Esq.  
Alan Rugg, Esq.  
Ilan Barzilay, Esq.  
John Strand, Esq.  
Jeffrey O'Neill, Esq.  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, MA 02210

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiff Explorica, Inc., by its counsel, will take the deposition upon oral examination of Elderhostel, Inc. d/b/a Exploritas ("Elderhostel"). The deposition will take place on February 9, 2010 at 9:00 a.m. at the offices of Goodwin Procter LLP, Exchange Place, Boston, MA 02109. The deposition shall be conducted before a notary public or other officer authorized to administer oaths and will be recorded by a certified stenographic reporter and videotape. The deposition will continue from day to day until completed.

The subject matter upon which examination is requested is set forth in Schedule A, attached. Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure,

Elderhostel shall designate one or more officers, directors or managing agents, or other persons who consent to testify on Elderhostel's behalf, who are most knowledgeable about the subjects set forth in Schedule A.

You are invited to attend and examine the witness or witnesses.

Respectfully submitted,

EXPLORICA, INC.

By its attorneys,

/s/ Mark S. Puzella

Mark S. Puzella (BBO No. 644850)

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Robert M. O'Connell Jr. (BBO No. 559667)

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GOODWIN PROCTER LLP

53 State Street

Boston, Massachusetts 02109

Tel.: 617.570.1000

Fax: 617.523.1231

Dated: February 2, 2010

**CERTIFICATE OF SERVICE**

I, Mark S. Puzella, hereby certify that a true copy of Explorica Inc.'s Notice of 30(b)(6) Deposition was served upon all counsel of record by electronic mail on February 2, 2010.

/s/ Mark S. Puzella

Mark S. Puzella

## **SCHEDULE A**

### **Definitions**

1. The term “Elderhostel,” as used herein means Defendant Elderhostel, Inc. d/b/a Exploritas and any and all former or present subsidiaries, affiliates, parents, directors, officers, employees, agents, auditors, attorneys, persons and/or business entities acting and/or purporting to act for or on its behalf.

2. The term “Explorica” means plaintiff Explorica, Inc., and any and all former or present subsidiaries, affiliates, parents, directors, officers, employees, agents, auditors, attorneys, persons and/or business entities acting and/or purporting to act for or on its behalf.

3. The term “EXPLORICA Marks” means, refers to, and includes the mark depicted in the incontestable federal trademark Registration No.2,732,669, issued July 1, 2003, and the design mark “E” depicted in federal trademark application Ser. No. 77/830,804, filed September 21, 2009, for “tour guide services and travel arrangement services and travel information services provided on a global computer network.”

4. The term “EXPLORITAS Marks” means, refers to, and includes the word mark “EXPLORITAS” depicted in the federal trademark application Ser. No. 77/358,144, filed December 21, 2007, and the design mark “E” depicted in federal trademark Registration No. 77/503,726, filed June 20, 2008, for “arranging travel tours.”

5. The terms “and” and “or” shall mean “and/or.”

**Topics**

Pursuant to Fed. R. Civ. P. 30(b)(6), Elderhostel shall designate one or more corporate representatives to testify on the following topics:

1. Any insurance policies which Elderhostel believes may cover, indemnify, reimburse, or otherwise satisfy all or part of a possible judgment in this matter.
2. Gross revenues for all tours, programs, and products sold under the EXPLORITAS Marks since the rebranding on or about September 22, 2009.
3. Any costs or deductions Elderhostel intends to claim against the gross revenues for tours, programs, and products sold under the EXPLORITAS Marks, for purposes of calculating its profits for products sold under the EXPLORITAS Marks.
4. The number of participants and corresponding revenue for all tours, programs, and products that have been sold under the EXPLORITAS Marks, broken down by product line.
5. Any marketing expenditures, as well as the type and volume of any marketing materials using or related to the EXPLORITAS Marks, including but not limited to, all mailings - direct and/or internet - catalogs, and brochures featuring the EXPLORITAS Marks, and all expenditures associated with updating the website to reflect the rebranding efforts under the EXPLORITAS Marks.
6. Elderhostel's marketing budget for 2010.
7. Documents produced in response to the requests made in the January 27, 2010 email to Counsel for Elderhostel from Counsel for Explorica.